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F A X C O V E R P A G E

Date: May 24, 2004

Total Pages: 5
(including cover)

To: Examiner Patel
USPTO

Fax: 571-273-2082
Phone:

From: William E. Winters

Fax: 408-278-8257
Phone: 408-282-1857
E-Mail: wwinters@thelenreid.com

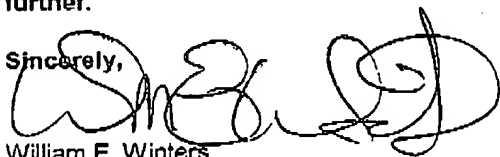
VIA FAX ONLY

U.S. Patent Appl. No.: 09/247,097
Attorney Docket No.: 034942-130

Dear Examiner Patel,

Per your request, attached is a copy of the terminal disclaimer, which we mailed to the USPTO on May 7, 2004, in connection with this patent application. Please let us know if you need anything further.

Sincerely,



William E. Winters
THELEN REID & PRIEST LLP
225 West Santa Clara Street, Suite 1200
San Jose, CA 95113
408.282.1857 - direct

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JOB #	ATTORNEY #	CLIENT-MATTER	RETURN TO	ROOM #

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Serial/Patent No.: 09/247,097

Filing/Issue Date: 2/9/99

Applicant: McCune et al.

Title: High-Efficiency Amplifier Cutoff Level and Burst Control

TRP Docket No.: 034942-130

Atty/Sec'y Initials: WEW/dm

Date Mailed: 5-7-04

Docket Due Date:

The following has been received in the U.S. Patent & Trademark Office on the date stamped hereon:

- | | |
|---|---|
| <input type="checkbox"/> Amendment/Response (____ pgs.) | <input type="checkbox"/> IDS & PTO 1449 (____ pgs.) |
| <input type="checkbox"/> Appeal Brief (____ pgs.) (in triplicate) | <input type="checkbox"/> Pieces of Prior Art Enclosed |
| <input type="checkbox"/> Application - Utility (____ pgs. with cover & abstract) | <input type="checkbox"/> Issue Fee Transmittal |
| <input type="checkbox"/> Application - Rule 1.53(b) Continuation (____ pgs.) | <input type="checkbox"/> Submission of Formal Drawings:
____ # of sheets includes ____ figures |
| <input type="checkbox"/> Application - Rule 1.53(b) Division (____ pgs.) | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Application - Rule 1.53(b) CIP (____ pgs.) | <input checked="" type="checkbox"/> Postcard |
| <input type="checkbox"/> Application - Rule 1.53(d) CPA (____ pgs.) | <input type="checkbox"/> Preliminary Amendment (____ pgs.) |
| <input type="checkbox"/> Application - PCT (____ pgs.) | <input type="checkbox"/> Reply Brief (____ pgs.) |
| <input type="checkbox"/> Application - Provisional (____ pgs.) | <input type="checkbox"/> Req and Cert. Not to Publish - Rule 1.213 |
| <input type="checkbox"/> Assignment and Cover Sheet | <input type="checkbox"/> Request for Continued Examination (RCE) (____ pgs.) |
| <input type="checkbox"/> Certificate of Correction | <input type="checkbox"/> Request for Extension of Time ____ Month(s) |
| <input type="checkbox"/> Certificate of Mailing | <input type="checkbox"/> Response to Notice to File Missing Parts |
| <input type="checkbox"/> Declaration & POA (____ pgs.) | <input type="checkbox"/> Copy of PTO Notice to File Missing Parts |
| <input checked="" type="checkbox"/> Fee Transmittal | <input checked="" type="checkbox"/> Transmittal Letter (original & copy) |
| <input type="checkbox"/> Drawings (informal):
____ # of sheets includes ____ figures | <input type="checkbox"/> Express Mail No.: ____ |
| <input checked="" type="checkbox"/> Other:
Terminal Disclaimer | <input type="checkbox"/> Check(s) \$ ____ |
| | <input checked="" type="checkbox"/> Deposit Acct. No. 50-1698 \$\$\$55.00 |
| | Patent Code: 2814 |
| | Client/Matter # 34942 - 130 |

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MAY - 7 2004

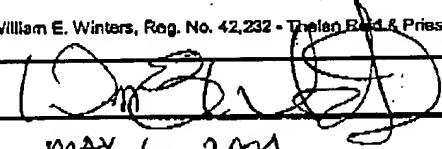
PTO/SB/21 (02-04)

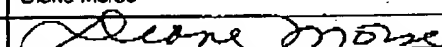
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	09/247,097
	Filing Date	February 9, 1999
	First Named Inventor	Earl W. McCune
	Art Unit	2838
	Examiner Name	Patel, Rajnikant
Total Number of Pages in This Submission	Attorney Docket Number	034942-130

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input checked="" type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): return postcard
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	William E. Winters, Reg. No. 42,232 - Thelen Reid & Priest LLP
Signature	
Date	MAY 6, 2004

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Diane Morse		
Signature		Date	5-7-04

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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as it displays a valid OMB control number.**FEE TRANSMITTAL**
for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 55**Complete if Known**

Application Number	09/247,097
Filing Date	February 9, 1999
First Named Inventor	Earl W. McCune
Examiner Name	Patel, Rajnikant
Art Unit	2838
Attorney Docket No.	034942-000130

METHOD OF PAYMENT (check all that apply)
☐ Check ☐ Credit card ☐ Money ☐ Other ☐ None
Order
☒ Deposit Account:Deposit
Account
Number

50-1698

Deposit
Account
Name

Thelen Reid & Priest LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments
☐ Charge any additional fee(s) during the pendency of this application
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.
FEE CALCULATION**1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	180	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$0)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
20	0	0	0
3	0	0	0
Multiple Dependent		0	0

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$0)

**or number previously paid, if greater. For Reissues, see above.

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	280	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Sheet	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) Terminal Disclaimer - Code: 2014

55.

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$55)

SUBMITTED BY**Complete (if applicable)**

Name (Print/Type)

William E. Winters

Registration No.
(Attorney/Agent)

42,232

Telephone

408-282-1857

Signature

Date

MAY 6, 2004

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**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING
REJECTION OVER A PRIOR PATENT**Docket Number (Optional)
034942-130

In re Application of: McCune et al.

Application No. 09/247,087

Filed: February 9, 1999

For: HIGH-EFFICIENCY AMPLIFIER CUTOFF LEVEL AND BURST CONTROL

The owner*, Tropian, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,636,112. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

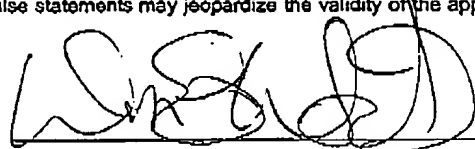
In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.



MAY 6, 2004

Signature

Date

William E. Winters

Typed or printed name

408-282-1857

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

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